



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,236	10/31/2003	Kevin P. Corbalis	UNISEN.104CP1	2307

20995 7590 09/10/2008
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER

RICHMAN, GLENN E

ART UNIT	PAPER NUMBER
----------	--------------

3764

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

09/10/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com
eOAPilot@kmob.com

Office Action Summary	Application No. 10/698,236	Applicant(s) CORBALIS ET AL.	
	Examiner /Glenn Richman/	Art Unit 3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/29/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 26-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chandrasekhar (WO 00/69525, IDS 11/25/05).

Chandrasekhar discloses a communication system (abstract).

Chandrasekhar does not disclose the communication system is wireless.

Chandrasekhar does disclose wireless communication systems are old in the art
page 1, line 14.

It would therefore have been obvious to use a wireless communication system with Chandrasekhar's system, as it is well known as taught by Chandrasekhar, to use a wireless system for communicating data remotely.

Chandrasekhar further discloses a holder arranged to support a portable electronic device in at least two orientations abstract (holder could hold the PED in various orientations-claim does specify if functional in at least two orientations) .

Chandrasekhar discloses a communication device mounted to communicate with said portable electronic device positioned within said holder 110. Given the obviousness discussed above, it would have been obvious for the communication device to be

Art Unit: 3764

wireless. It would further be obvious for said holder to be formed of a material that is generally transparent to wireless signals and that is optically opaque for a wireless communication device to transmit.

Chandrasekhar discloses a transceiver that is disposed to one side of said holder fig. 1b, a transceiver and said holder is disposed between said transceiver and a user of said exercise machine fig. 1a, a transceiver and said transceiver is remotely mounted next to said holder fig. 1b.

Chandrasekhar does not disclose the holder includes a generally cylindrical portion, however given no unexpected results it would have been obvious to use a cylindrical shape as opposed to Chandrasekhar's shape.

Chandrasekhar's discloses a recessed slot portion that intersect to effectively hold accessories fig. 1a, a personal data assistant abstract, said exercise machine comprises a treadmill fig. 1a.

Response to Arguments

Applicant's arguments filed 6/10/08 have been fully considered but they are not persuasive.

As to the applicant's arguments:

1. With respect to the "at least two orientations," the Examiner has argued that Chandrasekhar "discloses a holder arranged to support a portable electronic device in at least two orientations abstract (holder could hold the PED in various orientations-claim does not specify if functional in at least two orientations)." Applicant submits that this is incorrect. The following is quoted from page 10, lines 11-29: Referring now to

Art Unit: 3764

FIGS. 3a-3c, a first embodiment of the first housing element 102 is described. FIGS. 3a, 3b, and 3c are front, side and top plan views of the housing element 102, respectively. It will be recognized that the description provided herein is also applicable to the second housing element 106. As shown in the Figures, the housing element 102 comprises a substantially flat base member 300 and three substantially vertical wall members 302, 304, 306 attached to the base member 300 on three sides, thereby forming a recess 305 therein. The front region 308 of the housing element 102 is open to facilitate user access to the displays and controls of the PED 110 (not shown) received within -6- Application No.: 10/698,236 Filing Date: October 31, 2003 the recess 305. The PED 110 is inserted into and slides along a channel 310 formed within the recess 305 of the housing element 102. The channel 310 is partially formed by two sliding tracks 314a, 314b which are formed on the interior of the side walls 304~ 306. These sliding tracks are positioned so as to allow the PED to fit vertically within the channel 310~ and to align the data terminal 116 on the bottom surface of the PED 110 with the data terminal 122 of the housing element 102 such that the two data terminals 116, 122 mate and form electrical contact when the PED is inserted into the channel. The sliding tracks 314a, 314b further act to firmly retain the PED 110 in its operational configuration within the housing element 102 during use. Thus, Chandrasekhar disclosed a construction that limited the orientations of the PED relative to the housing element to the single orientation in which the data terminals would mate. While Chandrasekhar also disclosed that other housing constructions were possible (see page 11, lines 14-17), Chandrasekhar did not contemplate providing a housing element that could

Art Unit: 3764

accommodate the PED in more than one orientation. The only reason one would place a PED in the housing of Chandrasekhar was to cause data transfer, which required mating of the data terminals, which in turn required proper orientation of the PED relative to the housing. The modification of Chandrasekhar made by the Examiner (i.e., placing the PED in the holder in more than one orientation) would have made Chandrasekhar unusable for its intended purpose. Due to the positioning of the terminals, Chandrasekhar provided only a single orientation for alignment of the terminals. Orienting the PED in other orientations would have deterred electrical connection and, therefore, such reconfiguring of Chandrasekhar would have rendered Chandrasekhar unusable for its intended purpose.

As to 1 above, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., though the applicant is claiming "at least two orientations", what is not claimed is the device working in "at least two orientations", explained in the rejection above. Therefore it is obvious that Chandrasekhar's holder can support the electronic device in at least two orientations, though not necessarily two working orientations) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

2. With respect to the holder being formed of a material that is generally transparent to wireless signals and that is optically opaque, such a construction was not disclosed by

Art Unit: 3764

Chandrasekhar. The Examiner has simply stated: "If [sic] would further be obvious for said holder to be formed of a material that is generally transparent to wireless signals and that is optically opaque for a wireless communication device to transmit." While enabling transmission may lead one to a material that is generally transparent to wireless signals, the Examiner has provided absolutely no rationale that would lead one to an optically opaque material that also is generally transparent to wireless signals. Thus, the Examiner has failed to provide a rationale for finding obvious the formation of the holder of a material that is generally transparent to wireless signals and that is optically opaque.

As to 2 above, as it is well known in the art for a holder to be formed of a material that is generally transparent to wireless signals, and as the holder would have to be generally transparent to wireless signals to function (and as Chandrasekhar discloses it is old in the art to use a wireless device), it would be further obvious given no unexpected results, and that most materials are optically opaque.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

Art Unit: 3764

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to /Glenn Richman/ whose telephone number is 571-272-4981. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LoAn Thanh can be reached on (571)272-4966. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Glenn Richman/
Primary Examiner
Art Unit 3764